

HEBER LIGHT & POWER COMPANY

BOARD OF DIRECTOR'S RESOLUTION

ADOPTING IMPACT FEE & APPROVING IMPACT FEE CAPITAL FACILITIES PLAN

RECITALS

WHEREAS the Heber Light & Power Company ("the Company") is an energy services interlocal entity created by Heber City, Midway City, and Charleston Town to provide electric service to customers within the municipalities and surrounding areas.

WHEREAS the Company has caused to be prepared an Impact Fee Capital Facilities Plan and an Impact Fee Study Report, each of which comply with the Utah Impact Fees Act, *Utah Code Ann.* § 11-36a-101, *et seq.*

WHEREAS, on September 11, 2013, the Company caused to be published a Notice of Public Hearing on Impact Fee & Impact Fee Capital Facilities Plan, and Notice of Availability of Impact Fee Capital Facilities Plan and summary, Impact Fee Study Report and summary, & Draft Impact Fee Enactment (collectively "Notice") in the Wasatch Wave, a newspaper in general circulation in Wasatch County and the Company's service area.

WHEREAS, on September 25, 2013, the Company held a public hearing to take public comment on the Company's Impact Fee Capital Facilities Plan, draft Impact Fee Enactment, and proposed impact fee.

WHEREAS, for ten days prior to the public hearing, the Company posted the Notice and made available to the public the Company's Impact Fee Capital Facilities Plan and summary, Impact Fee Study Report and summary, and draft impact fee enactment as follows: (1) at the Wasatch County Public Library, 465 East 1200 South, Heber City, Utah, (2) at Heber Light & Power Company, 31 South 100 West, Heber City, Utah, (3) on Heber Light & Power Company's website, and (4) on the Utah Public Notice website.

WHEREAS the Company Board has carefully considered the information provided at the public hearing and contained in the Impact Fee Capital Facilities Plan and Impact Fee Study Report.

WHEREAS the Company Board has assessed the Company system's condition and need for capital expenditures to safely and reliably provide electric service to existing customers as well as new customers who will seek service in the future.

*Proposed Resolution
Recommended By Management of Heber Light & Power Company
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WHEREAS the Company Board has considered and investigated the resources available to fund the Company's capital needs to provide safe, reliable electric service.

WHEREAS, based on the foregoing as well as other information, the Company Board deems it necessary for the peace, health, safety, convenience, and general welfare of its existing and future customers to approve the Impact Fee Capital Facilities Plan and Impact Fee Study Report and to adopt the impact fee as more fully provided herein below.

NOW THEREFORE, BE IT RESOLVED BY THE HEBER LIGHT & POWER COMPANY BOARD AS FOLLOWS:

A. Definitions. The Utah Impact Fee Act ("Act") definitions apply in this enactment. Other terms are defined as shown.

B. Company's Impact Fee Capital Facilities Plan and Impact Fee Study Report.

1. As provided in Utah Code Ann. § 11-36a-302, the Company's Impact Fee Capital Facilities Plan reasonably identifies the demands placed upon existing public facilities by new development activity and the proposed means by which the Company will meet those demands at the Company's existing level of service.

2. As required by Utah Code Ann. § 11-36a-304, the Board finds that the Impact Fee Study Report reasonably:

- a. identifies the impact on system improvements of the development activity;
- b. demonstrates how those impacts on system improvements are reasonably related to the development activity to maintain the established level of service;
- c. estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and
- d. based upon those factors and the requirements of the Impact Fee Act, identifies how the impact fee was calculated.

The Board therefore finds that the Impact Fee Study Report provides a reasonable basis for the recommended impact fee.

3. In analyzing whether or not the proportionate share of the costs of system improvements are reasonably related to the new development activity and as required by Utah Code Ann. § 11-36a-304(2), the Impact Fee Study Report and the Impact Fee Facilities Plan have properly considered the following factors, to the extent applicable:

*Proposed Resolution
Recommended By Management of Heber Light & Power Company
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- a. the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
- b. the cost of system improvements of the Company;
- c. other than impact fees, the manner of financing for each system improvement, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
- d. the relative extent to which development activity will contribute to financing existing system improvements of the Company, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
- e. the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
- f. the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements that will offset the demand for system improvements, inside or outside the proposed development;
- g. extraordinary costs, if any, in servicing the newly developed properties; and
- h. the time-price differential inherent in fair comparisons of amounts paid at different times.

4. In adopting the recommended impact fee, the Board has carefully considered the Impact Fee Study Report by R.E. Pender, Inc. dated June 2013 and the Impact Fee Facilities Plan prepared by the Company, and adopts and approves the Impact Fee Study Report and Impact Fee Facilities Plan.

5. The Impact Fee Study Report concludes that an impact fee \$101.48/kVa would permit the Company to recover 100% of the projected costs of new system improvements required to serve projected load growth from new development.

C. Computation and Imposition of Impact Fee.

1. The Company is currently charging an Impact Fee of \$41.50/kVa. Although the Impact Fee Study Report would support a significantly higher impact fee, the Company's management has recommended that the impact fee not be increased but be continued at the current rate.

2. The Board has considered the recommendation of the Company's management and has determined that the impact fee should not be increased and should be continued at the rate of \$41.50/kVA based on the Impact Fee Study Report and Impact Fees Facilities Analysis.

3. Subject to the exemptions in Paragraph D, the Company shall charge an Impact Fee in the amount computed pursuant to the formula set forth in the Impact Fee Study Report.

4. As required by Utah Code Ann. § 11-36a-402, the Company establishes one service area within which it shall calculate and impose impact fees as a condition to obtaining electric service.

5. Any person who wishes to obtain new electric service or an upgrade of existing service is hereby required to pay an impact fee in the manner and amount set forth in this resolution.

6. Unless and until the impact fee is paid, the Company will not approve or service any new connection or upgrade of an existing service.

7. As shown by the Impact Fee Study Report and the Company Board's findings herein, the collection of an impact fee is necessary to achieve an equitable allocation of the system improvement costs borne in the past and borne in the future, in comparison to the benefits already received and yet to be received.

D. Exemptions.

1. Subject to Paragraph D.2, the following development activity is exempt from the impact fee imposed under Paragraph C to the extent that the development activity does not require an increase in the capacity of the original connection.

- a. Alterations or expansion of an existing building where no additional residential dwelling units are created and where the use of the property is not changed.
- b. The construction of accessory buildings or structures which are not used as dwellings and where the use of the property is not changed.

- c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same number of units and use.
- 2. The exemptions provided in Paragraph D.1 shall only apply:
 - a. where the existing or destroyed building were originally constructed pursuant to a validly issued development approval or building permit, and
 - b. where the owner at the time of the original construction of the existing or destroyed building paid the then existing connection fee or impact fee, and
 - c. where the owner applies for the exemption no later than the time of application for development approval or a building permit, and
 - d. where all fees and charges imposed by the Company on the property are current.

E. Company's Use and Accounting for Impact Fee Receipts.

As required by Section 11-36a-601 of the Utah Impact Fee Act:

- 1. The Company shall establish a separate interest bearing ledger account for impact fees collected;
- 2. The Company shall deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);
- 3. The Company shall retain the interest earned on the ledger account in ledger account;
- 4. The Company shall, at the end of each fiscal year, prepare a report on the ledger account showing: (a) the source and amount of all money collected, earned, and received by the ledger account; and (b) each expenditure from the ledger account; and
- 5. The Company shall produce a report that: (a) identifies impact fee funds by the year in which they were received, the project from which the funds were collected, the impact fee projects for which the funds were budgeted, and the projected schedule for expenditure; (b) is in a format developed by the state auditor; (c) is certified by the local political subdivision's chief financial officer; and (d) is transmitted annually to the state auditor.
- 6. The Company shall, at the end of each fiscal year, prepare a report on the impact fee account showing:

*Proposed Resolution
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- a. the source and amount of all monies collected, earned, and received by the account; and
- b. each expenditure from the account.

F. Company's Expenditure of Impact Fee Receipts.

1. As provided in Section 11-36a-602, the Company shall only expend impact fees for:

- a. The cost of the following types of system improvements described in the Impact Fee Facilities Plan: (i) increasing system capacity by installing additional feeders and tie circuits, (ii) installing, upgrading, or reconductoring existing circuits and feeders, and (iii) installing new or upgraded substation transformers and protective equipment. The specific projects may vary depending on (i) the needs of the system at the time that the funds are available or (ii) the portions of the system most impacted by new development; or
- b. The repayment of bonds or other debt incurred to finance the foregoing types of system improvements; or
- c. Refunds permitted under Paragraph G.

2. Except as provided in Section 11-36a-302(2) of the Utah Impact Fee Act, the Company shall expend or encumber the impact fees for a permissible use within six years of their receipt.

G. Refunds.

1. As provided in Section 11-36a-603 of the Impact Fee Act, the Company shall refund an impact fee, with interest at the annual rate of the impact fee account, only if:

- a. development approval or building permit expires before the commencement of the development activity, and
- b. the Company has not spent or encumbered fees, and
- c. no impact has resulted, and
- d. the person who paid the impact fee timely files a refund application with the Company as provided in Paragraph K.2 .

2. The person who paid the impact fee may deliver to the Company offices a refund application within thirty (30) days of the expiration of the development approval or building permit. The application shall show that applicant has fulfilled the refund conditions of Paragraph G.1. The Company may request that the applicant provide additional information or documents proving the applicant's compliance with the refund conditions, and that the applicant reimburse the Company for its out-of-pocket expenses, if any, in processing or investigating the application.

3. The Company may set-off against any refund amounts past due fees and charges on the property for which the refund is requested.

H. Adjustments to Impact Fee.

1. As required by Utah Code Ann. § 11-36a-402(1)(c), the Company may adjust the standard impact fee at the time the fee is charged: (a) to respond to unusual circumstances in specific cases or a request for an individualized impact fee review by the state, a school district or a charter school; and (b) to ensure that the impact fees are imposed fairly.

2. As required by Utah Code Ann. § 11-36a-402(1)(d), the Company may adjust the amount of the impact fee to be imposed on a particular development based upon studies and data submitted by the developer.

3. As required by Utah Code Ann. § 11-36a-402(2), a developer, including a school district or a charter school, may receive a credit against or proportionate reimbursement of an impact fee if the developer:

- a. dedicates land for a system improvement;
- b. builds and dedicates some or all of a system improvement; or
- c. dedicates a public facility that the Company and the developer agree will reduce the need for a system improvement.

4. As required by Utah Code Ann. § 11-36a-402(3), a local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:

- a. are system improvements; or
- b. are dedicated to the public; and offset the need for an identified system improvement.

*Proposed Resolution
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5. The Company shall not grant an impact fee adjustment under this Paragraph H unless the owner or developer applies for the adjustment no later than 30 days prior to submitting the application for development approval or a building permit.

I. Effective Date.

This resolution shall take effect on [90 days from approval] and shall repeal and replace the current impact fee on that date.